

molecule exhibits complete complementarity to a fragment of a second nucleic acid molecule having a nucleic acid sequence selected from the group consisting of SEQ ID NO: 1 through SEQ ID NO: 463,173 and complements thereof.

14. (New) A substantially purified nucleic acid molecule having between 90% and 100% sequence identity with a second nucleic acid molecule selected from the group consisting of SEQ ID NO: 1 through SEQ ID NO: 463,173 and complements thereof.

15. (New) The substantially purified nucleic acid molecule of claim 14, wherein said substantially purified nucleic acid molecule has between 99 % and 100% sequence identity with said second nucleic acid molecule.

**REMARKS**

Applicants present new claims 11-15 directed to the nucleic acid molecules of Group I. Following entry of this amendment, claims 11-15 will be pending in the instant application. Support for the new claims may be found in the original claims and throughout the specification, e.g., page 8, lines 28, to page 9, line 2, and page 10, line 26 through page 11, line 6. No new matter is introduced by these amendments.

In the Office Action mailed February 11, 2002, the Examiner required restriction to one of the following groups under 35 U.S.C. 121:

Group I: Claims 1-2, drawn to polynucleotides, classified in Class 536, subclass 23.1 and 24.1.

Group II: Claims 3-4 drawn to polypeptides classified in Class 530, subclass 300 and 350.

Group III: Claim 5, drawn to antibody, classified in Class 530, subclass 387.1.

Group IV: Claims 6-9, drawn to transformed/transgenic plant, classified in Class 800, subclass 3.

Group V: Claims 10, drawn to a method of determining the pattern or level of protein classified in class 435, subclass 7.1.

Upon the election of any one of the preceding Groups, the Examiner further required restriction to a single sequence.

Applicants respectfully traverse the restriction requirement and provisionally elect the subject matter of group I, presented in new claims 11-15, drawn to polynucleotides, and the sequence of SEQ ID NO: 48,411, for further prosecution. However, Applicants submit that the Patent Office has not proven that the search and examination of the entire application would impose an undue burden. Applicants submit that the complete examination would be handled most expeditiously by treating all of the pending claims as a single entity. As MPEP 803 directs, “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.” Applicants respectfully submit that the Examiner has not shown that a search and examination of the entire application would cause a serious burden. Rather, a serious burden would arise if the application were restricted.

No serious burden is created for the Examiner by running a simultaneous computerized search of the nucleic acids of Group I and the polypeptides of Group II. The single search may be run in conjunction with databases such as those available at <http://www.ncbi.nlm.nih>. A single search for a particular nucleotide sequence and its translation product, for example, would

automatically yield results from Groups I and II without any undue burden on the Examiner. In addition, the search would yield the results from the transformed/transgenic plants of group IV.

Based upon the foregoing, Applicants submit that the restriction requirement is improper and therefore must be withdrawn. In order to facilitate prosecution, Applicants have provisionally elected, with traverse, the subject matter of Group I and specific nucleotide sequence set forth in SEQ. ID NO: 48,411.

Should the Examiner have any questions regarding this application, the Examiner is encouraged to contact Applicants' undersigned representative at (202) 942-5000.

Applicants do not believe that any fees or extensions of time under 37 C.F.R. 1.136 are required in conjunction with this submission other than those set forth in the accompanying letter. However, in the event that extensions of time are necessary to prevent the abandonment of this patent application then such extensions of time are hereby petitioned. The U.S. Patent and Trademark Office is hereby authorized to charge any fees that may be required in conjunction with this submission to Arnold & Porter deposit account 50-1824, referencing matter number 16517.031.

Respectfully submitted,



David R. Marsh (Reg. No. 41,408)  
June E. Cohan (Reg. No. 43,741)

Date: March 11, 2002  
ARNOLD & PORTER  
555 12<sup>TH</sup> Street, N.W.  
Washington, D.C. 20004  
(202) 942-5000 telephone  
(202) 942-5999 facsimile